

Appl. No. 10/706,483
Amdt. Dated 10/4/2004
Response to Office action dated 09/03/2004

REMARKS

Claims 1-37, 42, 43, 45-50, 55, 56, 58, and 61-71 are pending. No new matter has been added.

Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel

Claims 42, 43, 45, 55, 56, 58, 61, 63-71 and have been amended, and claims 38-41, 44, 51-54, 57, 59, and 60 have been canceled, notwithstanding the belief that these claims were allowable. Except as specifically admitted below, no claim elements have been narrowed. Rather, cosmetic amendments have been made to the claims and to broaden them in view of the cited art. Claims 42, 43, 45, 55, 56, 58, 61, 63-71 have been amended solely for the purpose of expediting the patent application process, and the amendments were not necessary for patentability.

Any reference herein to "the invention" is intended to refer to the specific claim or claims being addressed herein. The claims of this Application are intended to stand on their own and are not to be read in light of the prosecution history of any related or unrelated patent or patent application. Furthermore, no arguments in any prosecution history relate to any claim in this Application, except for arguments specifically directed to the claim.

Claim Objections

The Examiner objected to claims 42, 43, 45, 55, 56, 58, 61, 62, 63, and 64 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 42, 43, 45, 55, 56, 58, 61, 63, and 64 have been amended to include all the limitations of the base claims and any intervening claims. Thus, the objection has been overcome.

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Claim Rejections - 35 USC § 112

The Examiner rejected claim 38 under 35 USC § 112, second paragraph as indefinite. Claims 42, 43, and 45 have been amended to include the limitations of claim 38. Thus, although the rejection has been overcome by canceling claim 38, it likely applies now to claims 42, 43, and 45.

The Examiner asserted, "that the phrase 'attached to one of the fixture walls' renders the claim vague and indefinite because the drawings illustrate the tube holder attached to the base, not the fixture walls." This rejection is respectfully traversed.

The Specification, at 9:36-45, states "the stem of the spring's U 511 is fixed by the mounts 530 to the first wall 210 [. .]." Moreover, the Specification, at 5:59-60, states, "The fixture 200 comprises a cover 220, a base 210 and a tube-holder (not shown, discussed below)." The walls of the fixture include the cover 220 and the base 210. Since the base is a wall of the fixture, the feature "attached to one of the fixture walls" is definite and the rejection should be withdrawn.

Claim Rejections - 35 USC § 103

The Examiner rejected claims 33-41 and 46-54 under 35 USC § 103 as obvious from Kurtz et al. (USP 5,660,719) in view of Block (*Disinfection, Sterilization, and Preservation*, 4th edition). This rejection is respectfully traversed.

Kurtz is directed to an ultraviolet light apparatus for the treatment of a fluid comprising a plurality of vertically arranged ultraviolet lamps accompanied by appropriate means to permit submersion of the lamps in the fluid to be treated (See Kurtz, 2:10-14). In Kurtz, the body of fluid is clarified sewage that is directed through a conduit or channel within which the UV light apparatus, when adapted to a modular configuration, is inserted (See Kurtz, 4:30-33). Kurtz discloses a dual compartment fixture (See Kurtz, 4:59-61). The bottom compartment, which includes a connector for the germicidal lamp, is sealed (See Kurtz, 6:9-12). The top compartment, which includes the ballasts and wiring, includes openings to promote air flow for heat transfer (See Kurtz, 5:1-18).

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Block discloses a method of generating UV radiation by a passage of electric discharge through low pressure mercury vapor enclosed in special glass tubes.

"To establish a *prima facie* case of obviousness, [. . .] the prior art reference (or references when combined) must teach or suggest all the claim limitations." *MPEP 706.02(j)*.

Claims 33 and 46 are independent. Claim 33 recites, among other features, "a cover adapted to protect the electrical interface from an environmental condition selected from the group comprising falling dirt, rain, sleet, snow, windblown dust, formation of ice, splashing water, hose directed water, and environmental corrosion."

The Examiner asserted that Kurtz discloses a "cover adapted to ruggedize the electrical interface comprising a stainless steel exterior surface. Moreover, it is disclosed that the fixture is sealed to be 'water resistant' as defined by NEMA Standard 250." However, Kurtz discloses that only the bottom compartment is made water resistant (See Kurtz, 5:48-51, 6:9-12, 6:59-7:6). Kurtz, at 5:3-4, discloses that a plurality of ballasts are disposed within the top compartment. Kurtz, at 5:11-18, discloses:

[d]ue to the amount of heat given off by the ballasts during the operation of UV lamps 20, a plurality of openings 28 are incorporated into one side 25 of compartment 12 overlaid by a shroud 30 that is open on one side. The opposite side of compartment 12 has similar openings 27 (see FIG. 3) which are also covered by a shroud 31 interfacing a fan 29 for drawing ambient air into the bottom of the compartment 12 interior.

Because Kurtz's top compartment includes openings for air cooling, it necessarily follows that Kurtz's electrical interface, which is connected to the ballast, cannot be protected from the environmental condition. Since Kurtz does not teach or suggest the claimed features, the rejection should be withdrawn.

To the extent that claim 46 features similar to claim 33, the arguments set forth for claim 33 are applicable to claim 46. Therefore, claim 46 is in form for allowance. It is respectfully requested that the rejection be withdrawn.

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By virtue of their respective dependence on claim 33 and 46, claims 34-37 and 47-50 are patentable for the same reasons as claim 33 and 46.

Conclusion

It is submitted, however, that the independent and dependant claims include other significant and substantial recitations which are not disclosed in the cited references. Thus, the claims are also patentable for additional reasons. However, for economy the additional grounds for patentability are not set forth here.

In view of all of the above, it is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

The Examiner is invited to call the undersigned attorney to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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